

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING

COMMISSION,

Case No. 18-CV-00361 (JBW) (RLM)

Plaintiff,

DEFENDANT OPPOSITION TO PLAINTIFF

v.

NOTICE OF WITHDRAWAL OF DEMAND

FOR TRIAL BY JURY

PATRICK K. MCDONNELL,

and CABBAGETECH, CORP. d/b/a COIN

DROP MARKETS,

Defendants.

VIA ECF

The Honorable Jack B. Weinstein
United States District Judge
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Dear Judge Weinstein:

I am a Defendant in the above referenced matter writing concerning Plaintiff **NOTICE**

OF WITHDRAWAL OF DEMAND FOR TRIAL BY JURY; [Docket #121], filed July 11, 2018 with the Court. Defendant opposes this request as it violates **The Seventh Amendment (Amendment VII)** to the United States Constitution. This amendment codifies the right to a jury trial and is generally considered one of the more straightforward amendments of the Bill of Rights. To not afford Defendant his constitutional right to a jury trial would be a miscarriage of due process. Defendant is being forced to represent himself Pro Se in a civil court proceeding worded as criminal charges. The rules of evidence in civil trial proceedings allow for the “*preponderance*” of evidence vs “*reasonable doubt*” in criminal trial proceedings. Defendant is being forced to represent himself in what alleges to be a criminal matter not civil per discussions throughout the proceeding. *With that said*, Plaintiff must bear the burden of proof as if this were a criminal trial vs civil and Defendant is relying on a jury of his peers to prove his innocence by way of evidence not sufficient to do so. The amendment additionally guarantees a minimum of six members for a jury in a civil trial. The amendment as proposed by Congress in 1789 reads as follows: ***“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”*** The Supreme Court has held that the Seventh Amendment's guarantee of a jury trial also guarantees a jury of sufficient size. The Court found a six-member jury sufficient to meet the amendment's requirements in *Colgrove v. Battin* (1973). Rule 38. Right to a Jury Trial; Demand also affords these constitutional rights; Right Preserved. ***“The right of trial by jury as declared by the Seventh Amendment to the Constitution—or as provided by a federal statute—is preserved to the parties inviolate.”***

Respectfully Submitted,

July 13, 2018

/s/ Patrick K. McDonnell

Patrick K. McDonnell “Pro Se”

20 Rawson Place, Staten Island, NY 10314

Telephone: (718) 524-6312 Email: cdm@gmx.us

2.

